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## Appeal Decision

Site visit made on 10 August 2022

**by Megan Thomas Q.C. Barrister-at-Law**

**an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities**

**Decision date: 9th September 2022**

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### **Appeal Ref: APP/U1430/D/21/3288167**

#### **May House, Wittersham Road, Iden, Rye TN31 7XB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under s.73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr & Mrs Patrick against the decision of Rother District Council.
  - The application Ref. RR/2021/1925/P, dated 4 August 2021, was refused by notice dated 19 October 2021.
  - The application sought planning permission for adapting and extending an existing two storey dwelling with the construction of a new detached double garage and detached pool house without complying with condition 2 on planning permission (ref. RR/2020/2459/P) dated 4 May 2021.
  - The condition in dispute is condition 2 stating "The development hereby permitted shall be carried out in accordance with the following approved plans and details: Site Plan Drawing no. 01520-PL-50 received 10.12.20. Block Plan Drawing no. 01520-PL-100 Rev B received 16.4.21. Proposed First Floor Plan (House) Drawing 01520-PL-226 received 10.12.20. · Proposed House Elevations Drawing no. 01520-PL-325 received 10.12.20. · Proposed Ground Floor Plans Drawing no. 01520-PL-225 Rev B received 16.4.21. · Proposed Garage Elevations Drawing no. 0152-PL-326 Rev B received 16.4.21. · Proposed Pool House Elevations Drawing no. 0152-PL-327 received 10.12.20."
  - The reason given for the condition is: "For the avoidance of doubt and in the interests of proper planning".
  - The appellant seeks a variation of the condition in dispute to refer to Block Plan Drawing no. 01520-PL-100 Rev C, Proposed Ground Floor Plans Drawing no. 01520-PL-225 Rev C, Proposed Garage Elevations Drawing no. 01520-PL-326 Rev C. These drawings will supersede the 3 existing of the same name so as to allow a larger building to be constructed.
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### **Decision**

1. The appeal is allowed and planning permission is granted for adapting and extending an existing two storey dwelling with the construction of a new detached double garage and detached pool house without complying with condition 2 on planning permission (ref RR/2020/2459/P) dated 4 May 2021 without complying with conditions 2 attached to the planning permission (ref RR/2020/2459/P) dated 4 May 2021, at May House, Wittersham Road, Iden TN31 7XB, in accordance with application ref. RR/2021/1925/P, dated 4 August 2021, and subject to compliance with the following conditions:
  - 1) The development hereby permitted shall be begun not later than 3 years from 4 May 2021.

- 2) The development hereby permitted shall be carried out in strict accordance with the following plans: Block Plan Drawing no. 01520-PL-100 Rev C, Proposed Ground Floor Plans Drawing no. 01520-PL-225 Rev C, Proposed Garage Elevations Drawing no. 01520-PL-326 Rev C, Site Plan Drawing no. 01520-PL-50, Proposed First Floor Plan (House) Drawing 01520-PL-226, Proposed House Elevations Drawing no. 01520-PL-325 & Proposed Pool House Elevations Drawing no. 0152-PL-327.
- 3) The materials to be used in the construction of the external surfaces of the alterations hereby permitted shall be those indicated within the original application form unless an alternative finish is first submitted to and approved in writing by the local planning authority.
- 4) The timber cladding shall be retained in a natural finish unless an alternative finish is first submitted to and approved in writing by the local planning authority.
- 5) At the time of construction the glazing to be used for the windows and patio/bi-folding doors shall be the Pilkington Optifloat Tinted Grey or a similar type. This shall be maintained thereafter.
- 6) The garage building shall be used only for purposes incidental to the occupation and enjoyment of the dwelling.
- 7) No above ground works on the pool plant room/pergola shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, height, spacing(density) and type of soft planting to the northwest boundary of the site. The soft planting shall be completed in accordance with a timetable agreed in writing with the local planning authority. All existing hedges and trees on the site shall be retained unless removal is specified as part of this approval. Planting shall be carried out in accordance with the approved details and retained thereafter. If within a period of five years from the date of the planting any tree or plant is removed, uprooted, destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
- 8) The new driveway shall be a permeable surface.

## **Procedural Matters**

2. The appeal relates to one element of a planning permission which was granted in 2021 for alterations and extensions to a dwelling, erection of a detached double garage and the erection of a detached pool house. The element sought to be altered is the double garage. The appellants seek to build a larger outbuilding which would accommodate a double garage, a home office and a WC.

3. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

### **Main Issue**

4. The main issue in the appeal is the effect of the proposed larger building, when considered cumulatively with the other development, on the character and appearance of the High Weald Area of Outstanding Natural Beauty 'AONB' and on the main dwelling and host building.

### **Reasons**

5. May House is a linear 1970s detached dwelling which was formerly an agricultural building. The agricultural restriction was removed in 2013. It is situated in the AONB and has a very rural setting, being accessed via a long access road just outside the village of Iden in East Sussex. May House is a reasonably large bungalow set within a generous plot which has some mature planting around its boundaries.
6. The detached garage which has planning permission has not yet been erected. The proposed replacement building would be in broadly the same location, which is to the north of the accessway and obliquely opposite the main dwelling.
7. The 2021 planning permission included permission for two new flat roof rear dormers to the main dwelling, enlargement and alteration of some of the existing fenestration, a new front entrance and some external cladding. The existing roof height stayed the same and the footprint, very broadly, the same.
8. The proposal would increase the floorspace of the garage building from about 45 sqm and about 3.8m high to about 70 sqm keeping the same height. At those dimensions, the resulting building would continue to read as an ancillary subordinate outbuilding and would not be overly bulky. It would be sensitively and legibly located, and well screened from any views available from outside the plot.
9. Taking into account the cumulative proposed development on the plot, i.e. the main dwelling as proposed to be completed, the pool house, the swimming pool and the appeal proposal, I do not consider that it would represent built development that would unduly harm the character or rural setting of May House. I have borne in mind the generous plot, the relatively low heights of the main dwelling, the pool house and the proposed home office/garage, the topography and the available screening from some vegetation year-round. These factors lead me to conclude that the cumulative development on the site would be acceptable and appropriate to the location. The character of the main dwelling and the (resulting) host building would not be harmed or harmful and the natural beauty of the AONB would, in my view, be conserved.
10. Local adopted policy indicates that development within the AONB should be small scale and in keeping with the landscape and settlement pattern. There would be compliance with that policy.

11. I conclude that the proposed home office/garage in combination with the other built development on the site would not harm the character or appearance of the AONB or the rural setting of the main dwelling and the resulting host building would not be unacceptably large or incongruous. There would be no conflict with policies OSS4, EN1, EN2 and EN3 of the Rother Local Plan Core Strategy (adopted 2014) or policy DHG9 or DEN2 of the Rother Development and Site Allocations Local Plan (adopted 2019).

**Conclusion**

12. Having taken into account all representations made, for the reasons given above, I allow the appeal.

*Megan Thomas Q.C.*

INSPECTOR